

EXHIBIT D

CAUSE NO. _____

JOHN DALISAY
Plaintiff

VS.

ALL NIPPON AIRWAYS CO., LTD,
UNITED AIRLINES, INC.
Defendants§
§
§
§
§
§
§
§
§

IN THE _____

DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JURY TRIAL DEMANDED**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff, John Dalisay ("Plaintiff"), complaining of Defendants, All Nippon Airways Co., LTD and United Airlines, Inc., ("Defendants"), and for cause of action would respectfully show this Honorable Court the following:

I.**FACTUAL BACKGROUND**

1. On or about March 31, 2019 Defendants owned and operated a commercial airplane traveling between Manila, Philippines and Tokyo, Japan operating as flight NH820. Plaintiff booked that flight through United and was traveling as a passenger. As such, Defendant All Nippon Airways Co., LTD was the actual carrier and United Airlines, Inc. was the contracting carrier of the flight.
2. Plaintiff is paralyzed and uses a wheelchair. Through negligent actions, Defendants failed to take proper precautions and use proper care when boarding and they dropped Plaintiff causing him to fracture his leg and sustain other injuries.

II.

DISCOVERY PLAN LEVEL 2

3. Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure Rule 190.3, and seek damages that exceed the jurisdictional limits of this Court and monetary relief of over \$1,000,000.00

III.

PARTIES

4. Plaintiff is a resident of Texas.

5. Defendant, United Airlines, Inc., is a Delaware company, headquartered in Texas, and can be served via its registered agent: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201.

6. Defendant, All Nippon Airways Co., Ltd. Is a Japanese company doing substantial business in Texas with its US headquarters in Houston and can be served via its registered agent: Yuzuru Nagawa, 600 Jefferson Street, Ste. 2070, Houston, TX 77002.

IV.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the lawsuit because Defendant is headquartered with principal offices in Harris County, Texas. Venue is proper in Harris County, Texas. Specifically, venue is proper in Harris County under the general venue rule because Defendants are headquartered with principal offices in Harris County, Texas.

8. Jurisdiction is also proper pursuant to Chapter III, Article 33 Section 2 of the Montreal Convention of 1999.

V.

CAUSES OF ACTION

9. At the time of the occurrence, Defendants were negligent in their handling of Plaintiff by failing to proper precautions and use proper care when boarding and they dropped Plaintiff causing him to fracture his leg and sustain other injuries. Defendants are also liable under Chapter III, Article 17, Section 1 of the Montreal Convention of 1999.

10. Plaintiff's injuries resulted from Defendants' gross negligence, which entitles Plaintiff to exemplary damages under TCPRC 41.

VI.

DAMAGES

11. As a proximate cause of Defendants' negligence, Plaintiff suffered severe injuries. Plaintiff seeks unliquidated damages that exceed the jurisdictional limits of this Court and monetary relief of over \$1,000,000.00, including but not limited to, past and future medical care, disfigurement, past and future pain and suffering, past lost wages and future loss of earning capacity, and past and future mental anguish.

VII.

REQUEST FOR DISCLOSURES

12. Pursuant to Rule 194 of the Texas Rules of Civil Procedures, Defendants are requested to disclose the information and material described in Rule 194.2 within fifty (50) days of the services of this Plaintiff's Request for Disclosures to Defendants.

VIII.

JURY DEMAND

13. Plaintiff respectfully demands a jury trial.

IX.

PRAYER

14. For these reasons, Plaintiff asks that Defendants be cited to appear and answer and that Plaintiff have judgment against Defendants for the following damages:

- a. Physical pain and suffering in the past and future;
- b. Mental anguish in the past and future;
- c. Disfigurement in the past and future;
- d. Physical impairment in the past and future;
- e. Medical expenses in the past and future;
- f. Past lost wages and future loss of earning capacity
- g. Costs of suit;
- h. Prejudgment and post judgment interest as provided by law; and,
- i. All other relief, in law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

Simon & O'Rourke Law Firm, P.C.

By: /s/ Sean O'Rourke
Sean E. O'Rourke
State Bar No. 24046547
711 West Bay Area Blvd, Suite 225
Webster, Texas 77598
Phone: 281-667-4081
Fax: 281-823-7482
sorourke@solawpc.com

ATTORNEY FOR PLAINTIFF